

## NOISE ORDINANCE TASK FORCE

### November 16, 2021

Meeting of Noise Ordinance Task Force held via WebEx was called to order at 2:05 p.m. by Director Michael Shannon.

Roll Call by Director Michael Shannon. Those in attendance include:

#### **Members**

Gemma Kennedy  
Patricia Garcia Duarte  
Colleen Waguespack  
Marta Solomon  
Dawn Larios  
Sam Aguirre  
John Doski  
John Brenneman  
Randell Smith  
Amin Tohmaz  
Savita Rai

#### **Alternates**

Gina Eisenberg  
Bianca Maldonado  
Byron Berkus  
Sergio  
David Uhler  
Chad Carey

#### **Non-Members**

Michael Shannon  
Michael Uresti  
Danny Liguez  
Alma Martinez Jimenez  
Arturo Arredondo  
Denise Hastings  
Dale Russell  
Logan Sparrow  
Samantha Wickwire  
John Corona  
Trent Garmoe

#### **Non-Members**

Christine Hill  
Stacy Jones  
Jim Dalglish  
Mary Johnson  
Lydia Kelly  
Michelle Garibay  
Nicholas Frank  
Margaret Leeds  
Parker Dixon

Michael Shannon - Will recap and go over what was agreed to. There were about five points mentioned; we will not be adding any seats or members to the current task force. However, we want to make sure more people are invited to attend, and more community meetings will be scheduled throughout the process. Alternates are allowed. Each task force member is responsible for finding their own alternate. Make sure the alternate is up to speed on the issues and share your view on the issues. We had a conversation about quorum and an appropriate balance of this task force. Legally, we do not have to have a quorum, but it was agreed that a majority of the task force needs to attend a meeting which would be eight members. City staff will keep an eye out if the majority ends up being all residents are mostly commercial property owners. We need to maintain a balance of views. If and when we get to vote on something, City staff will not vote. City staff will give opinions but will have no vote on issues. We are going to continue to try to make logging on the meetings easier. The discussion format will remain the same. Task force members will speak most of the time and non-task force members will be able to speak at the end of the meeting.

Michael S –Moving on to the minutes. Is everyone okay with the minutes from October 28, 2021 meeting. Is everyone okay with the format of the minutes from the meetings? (Thumbs up received from members on WebEx).

Michael S – We will now move on discuss the pilot program. The pilot program is the City's code enforcement taking a few days out of the week enforcing the noise ordinance. We started in October and we now have data from six weekends, eighteen nights, Thursday, Friday Saturday, ending November 14, 2021. Six team members go out each of those nights to address noise complaints. The weekly total is 424 calls received by SAPD non-emergency for this past week. Code was able to investigate 171 of the calls. Out of the 171 calls Code confirmed 21 violations, eight of those violations received a citation from SAPD. There were fourteen calls Code was not able to assess due to safety reasons. For the total pilot program, SAPD non-emergency received 2,678 calls (averaging 149 a night), 881 calls were investigated by Code Enforcement (average of 49 a night), 127 noise violations were confirmed (average of 7 a night), sixty-six citations were issued by SAPD (average 4 a night) and Code was not able to assess 20 location due to safety reasons. If you look at the 800 calls out of 2600, with six code officers working, we can get to about a third of the calls. The violation is confirmed 14% of the time the code officers go out. Sixty percent of the violations are residential property, a third are business property and 5% are properties on the Riverwalk. Citations issued by SAPD is 52%.

Gemma Kennedy – When code goes out and confirms the violations, why are there so few citations issued. Are they giving warnings or just straight citations?

Michael S – The councilperson of district 7 asked that same question. If code is going out, why aren't they issuing the citations instead of passing it off to SAPD. This was a very deliberate decision because code officers are not licensed peace officers. The code officer will take the readings and if there is a violation, it will be handed over the SAPD. Sometimes SAPD will not be able to get to the calls that night. There are no warnings given. If a violation is confirmed by the code officer, a citation is to be issued.

Amin Tohmaz – Basically, the plan is for Code to respond to the calls, document the readings. Every call that comes in to SAPD is rated on a level of 1 to 7. One is emergency life-threatening case and noise is a level 7. When a call is dispatched to PD, it goes into a queue. If any other calls come in at level 1 through 6, the noise call will be knocked down because it is not a high priority. When PD does get to a call two to eight hours later, the noise has either stopped or business has closed. The plan is to check this for three month and then we may tweak the process depending on the safety of the officers.

Michael S – Working with the police has been a learning curve for both Code and SAPD. We are trying to find those operational methods that we can increase. If there is a violation, there should be a citation. There are some questions in the chat asking where all the violations are coming from. The violations are all over the City. Information of where the calls are coming in has not been listed on the website as of yet. We are getting calls where the volume is not over the threshold.

Bianca Maldonado – There is value in transparency. There has been no change in the noise ordinance. The pilot program is simply the City allocating resources to enforce an ordinance that has been on the books. The fundamental concern brought up since day on is enforcement. The City posted all the violators during the pandemic so there is no reason not to post violators of the noise ordinance.

Michael S. – During the pandemic we did not just post violators, we posted all calls that came in. Most of the businesses were in compliance.

Bianca Maldonado – Posting all the calls reported. Everyone has a noise meter now and having the equipment to get a proper reading and to respond in a timely fashion were two fundamental things that

this is reporting out; that we were able to get to a location in a timely manner and this is the reading that was found. This also celebrates the people that are in compliance.

Marta Solomon – Is strongly in favor of using the reporting method to be part of the community awareness engagement. Posting the calls will help with the education process

Samantha Wickwire – also agrees with posting the calls.

Michael S. – What would be the negative of posting all of the calls that come in reporting noise

Chad Carey – If there are businesses that are being targeted by disgruntled people that are adjacent in the neighborhood, they can continue to make calls adding to the system and the readings can be made in way that it is not in keeping with the readings of the ordinance. We will be taking a number of citations to trial because they do not believe that the readings were being done correctly by Code Enforcement and SAPD. There could be residents that devote their lives to calling every single weekend of every single night and if they are doing that to specific addresses it can open up a path of what a neighborhood is doing or not doing.

Michael S – (to Chad Carey) What idea or solution would you have to combat someone calling in continuous on a particular business that is repeatedly found to be compliant.

Chad Carey – Has no great idea about how to deal with that at this moment. His concern is that if a reading is being taken and oftentimes not being taken correctly. He is not being shown where the reading is being taken from. It would be beneficial if he was getting a hundred calls on his business and only received three citations because it would look like by and large he is doing what he needs to be doing.

David Uhler - We should wait until a case is adjudicated before posting because until then it is an alleged violation. The complainants are not going to be named, so it should be just as fair for the people cited.

Dawn Larios – Agrees with David. It would be wrong to place a scarlet letter on alleged violators that have not been cited. There is currently a restaurateur who has been called on numerous times and has not yet been cited once. If you were to post the number of times calls are made and no citation issued that is another thing, but some businesses are just being targeted.

Sam Aguirre - Some of the comments made give evidence that the ordinance is flawed. The issue here is, it is all public information, it is transparent, and it is not evidence of a conviction, but whether there is a conviction or not it is not also evidence that the violation did not occur. There is a real issue about where there is smoke there is fire. The public has a right to know where numerous calls are coming in. Most people are calling again and again because there is an actual nuisance occurring.

Savita Rai – Can understand the wish for transparency, but when citations are issued, the process for litigation is going to kick in. The biggest concern is if you put alleged violator, that may persuade a potential jury if the business or the property owner requests a jury. They would have access to a public data such as this.

Gemma Kennedy – Is interested in knowing what the data is going to be showing. Would like to know how many people are calling in over and over again. Does not need to know their names, just want to know how many repeat callers are complaining about a business.

Bianca Maldonado – When you call about a noise situation, if there are multiple callers, the dispatch will tell you they have had multiple calls about a particular situation. The data that we have been analyzing lists all the names of the businesses and addresses to date on the website. Those are not violations, it is the number of calls. There is also a heat map that was generated. One of the highest locations being called on is the mental health issue on the list for noise.

Gemma Kennedy – Agrees with Bianca but is not even sure where the data is to look at it. If it could be summarized and shared that would be more beneficial.

Amin Tohmaz – We can put some information together in a spreadsheet and present it to the task force at the next meeting.

Michael S – Of the 127 confirmed violations referred to SAPD two-thirds were residential and one-third were commercial. Will share names and addresses of businesses that have confirmed violations. They will be going to court and getting their due process.

Gemma Kennedy – If SAPD does not get to a call, it is then closed. Has anything been done to improve that along with their response time.

Amin Tohmaz – We are in communication with PD on a regular basis as well as Legal. Last week we found 21 locations that were in violation and referred those to PD but only eight citations were issued. In one of the instances PD could not make it to the location until eight hours later. We are in talks with Legal for other options. One of the options is we can file at large. That would mean Code could file the paperwork and present it to the City Prosecutor for review. Another question was can we issue a citation for a violation that occurred a week ago.

Savita Rai – On the issue of police issuing the citations, noise is not a high priority such as a shooting so police getting to the calls at a later point. The question has come up about filing at large which the report is handed off to a different police officer the next day or two days later and what is the process for that. We will be talking with the PD lawyer to get some answers on that.

Michael S – If you are a business owner and you get a citation for a violation that occurred a week earlier, how would that make you feel?

Bianca Maldonado - This should be focused on residential as well.

Dawn Larios – If something is happening at a specific period of time and it needs to be elevated to SAPD, they should show up. Does not understand how you can investigate something days later. It's like getting a speeding ticket days later because someone wrote down their license plate

Colleen Waguespack- In other code violations, it is city official who has documented the problem. If someone repeatedly does not mow their lawn, gets cited for it but in the meantime has mowed the grass doesn't mean their lawn was long.

Marta Solomon – The Code officer is acting in good faith if they take a reading and find that someone is in violation. It's not like they are framing someone or harassing them. This is a health issue because people need their sleep.

Sergio – If we are talking about transparency and the code officer does take a reading, it is important that they identify themselves, approach a manager and let them know where they are. Since this is a pilot program, they should be fact finding and doing education over citation.

Sam Aguirre – There are probably all kinds of violations where the charge or citation is not issued until some time later. It all comes down to having a credible witness who witnessed it at the time it occurred. If that evidence is available, it is up to a judge to decide whether it is sufficient evidence.

Michael Shannon - We were working with someone, a local acoustical engineer, but that person left the company and then the company wants to charge \$5000 dollar to give presentation.

John Brenneman - Knows someone and can get a competent sound engineer to attend the meeting.

Amin Tohmaz – Would like for the task force members to download an app to measure decibels around their home or wherever. Would prefer everyone to download the same app. There are instructions on how to use the app once it is installed. The first time you use the app at home, make sure the air-conditioner, tv, radio, etc. are turned off.

Michael S. – We going to hear from some of the non-task force members that are on the call.

Jim Dalglish – The current allowed decibel level is too high. He has had police in his house telling him that it's too loud, but they are within range. Also, the time of day is a problem, not being in violation until after 10 pm is ridiculous.

Michael S - This group is not only looking at enforcing the current code but what if anything should be changed in the ordinance to make it more effective.

Margaret Leeds – A week ago Saturday she and her neighbors were disturbed by a Diwali celebration. What is the process of monitoring City events or things that occur on City property.

Michelle Garibay Carey - Is a local musician and performing outdoors has become preferable during the pandemic. Musicians have lost a lot of work during 2020. What she feels is interesting about the ordinance is on the Riverwalk you cannot have a microphone outside, but you can have drums and horns and such. As a singer, it is really hard to sing with a mask on.

Parker Dixon – Lives of the strip and is not bothered by the noise but it bothers his neighbors who have to sleep with earplugs.

Stacey Jones – Two things specifically with sound. Since some of the bars are so close together are the real bad actors being found. Some bars are being called on and it is not them, it is another bar in the same vicinity. Not a fan of the list being on the website. There are groups of people who just do not like a bar and they are having everyone in their neighborhood or in their apartment complex call on one place starting at 8:00 pm.

Michael S – The next meeting will be December 14 in person in the evening.

Meeting adjourned at 2:04 pm